

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 445, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 33-42-2-2 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) A notary public
- 5 may not do any of the following:
- 6 (1) Use any other name or initial in signing acknowledgments,
- 7 other than that by which the notary has been commissioned.
- 8 (2) Acknowledge any instrument in which the notary's name
- 9 appears as a party to the transaction.
- 10 (3) Take the acknowledgment of or administer an oath to any
- 11 person whom the notary actually knows:
- 12 (A) has been adjudged mentally incompetent by a court; and
- 13 (B) to be under a guardianship under IC 29-3 at the time the
- 14 notary takes the acknowledgment or administers the oath.
- 15 (4) Take the acknowledgment of any person who is blind, without
- 16 first reading the instrument to the blind person.
- 17 (5) Take the acknowledgment of any person who does not speak
- 18 or understand the English language, unless the nature and effect
- 19 of the instrument to be notarized is translated into a language
- 20 which the person does speak or understand.
- 21 (6) Acknowledge the execution of:

- 1 (A) an affidavit, unless the affiant acknowledges the truth of
 2 the statements in the affidavit; or
 3 (B) an instrument, unless the person who executed the
 4 instrument:
 5 (i) signs the instrument before the notary; or
 6 (ii) affirms to the notary that the signature on the instrument
 7 is the person's own.
- 8 **(b) Except as provided in subsection (d), if a notary public violates**
 9 **this article, the notary's appointment may be revoked by the judge of**
 10 **the circuit court in which the notary resides.**
- 11 (c) The secretary of state may:
 12 (1) investigate any possible violation of this section **or of section**
 13 **10 of this chapter (notario publico deception)** by a notary
 14 public; and
 15 (2) under IC 4-21.5, revoke the commission of a notary public
 16 who violates this section **or section 10 of this chapter (notario**
 17 **publico deception).**
- 18 If the secretary of state revokes the commission of a notary public, the
 19 notary public may not reapply for a new commission for five (5) years
 20 after the revocation. **If a notary public has been convicted of notario**
 21 **publico deception (this chapter), the notary public may not reapply**
 22 **for a new commission.**
- 23 **(d) If a notary public is convicted of notario publico deception**
 24 **(this chapter), the judge of the circuit court in which the notary**
 25 **resides shall permanently revoke the notary's appointment.**
- 26 Page 1, line 2, delete "A" and insert "**This section applies only to**
 27 **a**".
- 28 Page 1, line 2, delete ":".
- 29 Page 1, line 3, strike "(1)".
- 30 Page 1, line 4, delete ";" and insert ".".
- 31 Page 1, line 4, strike "and".
- 32 Page 1, strike lines 5 through 7.
- 33 Page 1, line 8, strike "(B)".
- 34 Page 1, line 8, delete "uses".
- 35 Page 1, line 8, strike "in the advertisement:".
- 36 Page 1, line 9, delete "(i) terms that represent".
- 37 Page 1, line 9, strike "that the person is a notary, notary".
- 38 Page 1, strike lines 10 through 11.
- 39 Page 1, line 12, strike "a notary public;".
- 40 Page 1, delete lines 13 through 17.
- 41 Page 2, strike lines 1 through 5, begin a new paragraph and insert:
 42 **"(b) As used in this section, "advertise" means to make a**

1 communication to the public offering the person's services. The
 2 term includes a communication made in any medium, including a
 3 written medium, a broadcast medium, by means of the Internet, on
 4 a web site, or using any other form of electronic communication.

5 (c) As used in this section, "notary designation" means a
 6 representation that a person is a notary public, including the use
 7 of the term:

8 (1) notary public;

9 (2) notario;

10 (3) notario publico;

11 or any other term indicating in English or a language other than
 12 English that a person is a notary public.

13 (d) As used in this section, "notary disclosure" means a
 14 statement in English, and, if an advertisement requiring a notary
 15 disclosure is made in another language, the other language, stating:

16 "I AM NOT AN ATTORNEY PRACTICED TO LICENSE
 17 LAW IN INDIANA, AND I MAY NOT GIVE LEGAL
 18 ADVICE OR ACCEPT FEES FOR LEGAL ADVICE."

19 If the notary disclosure is required to be made in a written
 20 advertisement, the notary disclosure must appear in a conspicuous
 21 size. If the notary disclosure is required to be made in an oral
 22 advertisement, the notary disclosure must be spoken at a normal
 23 speed and at a normal volume.

24 (e) A person who knowingly or intentionally:

25 (1) advertises using the notary designation without using the
 26 notary disclosure:

27 (A) in the advertisement;

28 (B) on the person's business card; and

29 (C) on the person's letterhead;

30 (2) advertises or claims to be an expert on immigration
 31 matters without being a designated entity as defined under 8
 32 CFR 245a.1(l);

33 (3) accepts payment in exchange for providing legal advice or
 34 any other assistance that requires legal analysis, legal
 35 judgment, or interpretation of the law;

36 commits notario publico deception, a Class A misdemeanor."

37 Page 2, delete lines 6 through 33, begin a new paragraph and insert:

38 "SECTION 3. [EFFECTIVE JULY 1, 2007] IC 35-42-2-10, as

- 1 **amended by this act, applies only to crimes committed after June**
- 2 **30, 2007."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to SB 445 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 9, Nays 0.

Senator Bray, Chairperson